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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

CHICAGO INSURANCE COMPANY,

Plaintiff,

v.

KUMMER, KAEMPFER, BONNER,

RENSHAW & FERRARIO, et al.,

Defendants.

Case No. 2:14-cv-0308- RFB-VCF

**STIPULATION AND [PROPOSED]
ORDER TO STAY BRIEFING PENDING
RESOLUTION OF UNDERLYING
LITIGATION**

1 Plaintiff Chicago Insurance Company (“CIC”) and Defendant Kummer Kaempfer Bonner
 2 Renshaw & Ferrario (“KKBRF”) have met and conferred and agree to stay the briefing on CIC’s
 3 motion for summary judgment pending the outcome of the underlying insurance matter giving rise to
 4 this insurance coverage dispute.^{1 2} For the purposes of this stipulation, the “outcome of the underlying
 5 insurance matter” shall mean the entry of a final determination of KKBRF’s rights or obligations in
 6 connection with the underlying matter—either through final judgment or some other means—at the
 7 trial level, and does not include the resolution of any appeals taken unless otherwise agreed.

8 The parties believe that staying the briefing will help to avoid duplicative litigation and the
 9 unnecessary expenditure of time and resources. The parties agree that both CIC and KKBRF will have
 10 the option to terminate this stipulation by providing thirty days’ notice to the other parties to this action.
 11 Once the thirty-day notice period has expired, the parties will file a joint report to the Court notifying it
 12 of the resumption of the briefing on CIC’s motion for summary judgment. Finally, the parties agree to
 13 notify the Court within one week of a resolution in the underlying matter to determine whether the
 14 briefing should be resumed. At present, no date has been set for a hearing on CIC’s motion for
 15 summary judgment.

23 ¹ The underlying matter is currently proceeding in the District Court of Clark County, Nevada,
 24 under the caption *Silver Lining Construction, LLC v. Vistana Condominium Owner’s Association, Inc.*
 (Case No. 08A578306).

25 ² *Montrose Chern. Com. v. Superior Court*, 861 P.2d 1153, 1162 (Cal. 1993) (“when the third
 26 party seeks damages on account of the Insured’s negligence, and the insurer seeks to avoid providing a
 27 defense by arguing that its insured harmed the third party by intentional conduct, the potential that the
 28 insurer’s proof will prejudice its insured in the underlying litigation is obvious. This is the classic
 situation in which the declaratory relief action should be stayed.”) (citations omitted). KKBRF does
 not believe that CIC has the basis to defeat insurance coverage; nevertheless, it does not wish to, as
 case law states, fight a “two-front war.”

1 DATED this 19th day of April, 2016.

2
3 **AKIN GUMP STRAUSS HAUER &**
4 **FELD LLP**

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9 Attorney for Chicago Insurance Company

Attorney for Defendant Kummer Kaempfer Bonner
Renshaw and Ferrario

10
11 **ORDER**

12
13 **IT IS SO ORDERED.**

14 **IT IS FURTHER ORDERED** that the parties shall file monthly status reports notifying the
15 Court as to the status of the underlying state court action. The first such status report shall be due by
16 due by May 31, 2016, with each subsequent report due every 30 days thereafter.

17
18 DATED: April 26, 2016



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Chicago Insurance Company v. Kummer Kaempfer Bonner Renshaw & Ferrario, et al.
United States District Court of Nevada Case No. 2:14-cv-0308-RFB-VCF

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is: 580 California Street, Suite 1500, San Francisco, California 94104. On April 20, 2016, I served the foregoing document(s) described as:

STIPULATION AND [PROPOSED] ORDER TO STAY BRIEFING PENDING
RESOLUTION OF UNDERLYING LITIGATION

on the interested party(ies) below, using the following means:

**All parties identified for Notice of Electronic Filing generated by the Court's
CM/ECF system under the above-referenced case caption and number**

BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 20, 2016, at San Francisco, California.


Lorraine France-Gorn